The Planning Inspectorate

Appeal Decision

Site visit made on 5 June 2017

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 June 2017

Appeal Ref: APP/N4720/W/17/3171727
28 Moorland Avenue, Woodhouse, Leeds, West Yorkshire LS6 1AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Northern Eye UK Ltd against the decision of Leeds City Council.
- The application Ref 16/05009/FU, dated 10 August 2016, was refused by notice dated 28 October 2016.
- The development proposed is the change of use, conversion and alterations to form one bedroom house and associated garden.

Decision

1. The appeal is dismissed.

Procedural Matter

2. At appeal stage amended plans were submitted which alter the style and position of various windows. I am normally required to deal with an appeal on the basis of the same plans that informed the Council's decision. Nonetheless, and irrespective of the merits of the revised scheme, I have considered whether it would be appropriate to take the revised drawings into account in this case. I have concluded that it would not as it is not clear that other people have been made aware of the amended plans, or that all those who need to be consulted would not be prejudiced by the revised scheme. Therefore, I cannot proceed on that basis.

Main Issue

3. The main issue in the appeal is whether or not the proposal would provide adequate living conditions for future occupiers with particular regard to the provision of private outdoor space, and for adjacent occupiers with regard to privacy.

Reasons

Living Conditions

4. The appeal relates to a two storey outbuilding set back slightly from Moorland Avenue, in the rear garden of the host property. The latter is a 4 storey mid terraced dwelling, which due to the topography is at a higher level than the outbuilding. It is proposed to convert the outbuilding into a 1 bedroom dwelling, which would have the main living accommodation on the first floor.

5. The *Neighbourhoods for Living Residential Design Guide (adopted December 2003)* highlights the importance of providing well designed private and semi-

private open space for all new residential developments. Whilst the appeal site may be close to a large area of parkland, this does not negate the need to provide some useable, private outdoor space for the proposal.

6. The proposed dwelling would be provided with a small courtyard to the rear of the outbuilding, the size of which would be commensurate with the size of the proposed property. However, despite the proposed retaining wall and boundary treatments, it would be overlooked from a significant number of the upper floor windows on the rear elevation of the host property and the adjacent houses. As a result, the outdoor space would have little privacy, and the perception of being overlooked when using this area would in my view, be unacceptable.

7. This combined with the fact that it faces north, and the lack of any direct access from the rear of the proposed dwelling would constrain the usability of this space. Although a small area, enclosed by a low wall and railings, would be created to the front of the dwelling, as this would be adjacent to the road, it would have no privacy.

8. The windows in the rear elevation of the proposed dwelling would be around 17m from those on the existing houses, and would also be close to the rear garden of the surrounding houses. Intervisibility between both these windows, and to the garden areas, would be restricted by the oblique angles of some of the views, the difference in levels, and the position of outriggers and vegetation. In addition, the appellant has indicated that the first floor window at the rear which, together with windows on the front elevation, would serve the living area would have a high cill level which would restrict the views out of the window. Given this, and subject to a condition, to ensure the provision of adequate landscaping or boundary treatments on the common boundary with No 30, I consider that the proposal would not result in a loss of privacy to adjacent residents.

9. All in all, although I consider that the proposal would not unacceptably harm the living conditions of adjacent occupiers with regard to privacy, it would not provide adequate living conditions for future occupiers with regard to the provision of private outdoor space. Accordingly it would conflict with Policy GP5 of the *Leeds Unitary Development Plan (Review 2006) (adopted July 2006)* which requires that proposals should resolve detailed design considerations. It would also be contrary to the core planning principle (paragraph 17) of the *National Planning Policy Framework* which requires a good standard of amenity for all existing and future occupants of land and buildings.

10. I have had regard to the previous appeals[1] for similar proposals on the appeal site. The current proposal has sought to address the concerns of the previous inspectors regarding the outlook from the property, largely by putting the main living accommodation on the first rather than the ground floor. I note in particular that the first inspector indicated that the rear amenity space could be designed to be useable by future occupiers. I do not have the plans for the amenity space proposed in that scheme, but can see from the description given in the decision letter that it is different to that proposed now, as it indicates that the amenity space would be at a higher level than the ground floor of the outbuilding and accessed via steps. Given this, I have determined the appeal on its own merits, and on the basis of what I observed, for the reasons set out

[1] Appeal References: APP/N4720/A/13/2195502 and APP/N4720/A/14/2215369

above, I consider that the level of overlooking of the outdoor space proposed in this scheme would not provide adequate living conditions for future occupiers.

Other Matters

11. The appeal site lies in Woodhouse Moorlands Conservation Area, and as a result I have had special regard to the statutory duty to pay attention to the desirability of preserving or enhancing the character or appearance of the conservation area. I understand the outbuilding has been used for storage of building materials. Although I have not been made aware that its use for this purpose has caused any specific issues, the proposal would remove a non-conforming use from this predominantly residential area. It would also improve the appearance of the building and the surrounding garden area. It would therefore provide some limited enhancements to the character and appearance of the conservation area.

12. It is not disputed that the appeal site lies in an accessible location within the urban area, and I note that there is no objection to the proposal from the Council's internal advisors on highways, environmental health and housing. The proposal would also result in the supply of an energy efficient dwelling. These are all matters that favour the scheme.

13. The Council have indicated that the appeal site is located in the area covered by an Article 4 Direction for Houses in Multiple Occupation (HMO), and have stated it would be contrary to Policy H6 of the *Leeds Core Strategy (adopted November 2014)*. In particular they consider that the proposal would be likely to further unbalance the area, and that the level of accommodation would be below the minimum threshold for the conversion of houses to flats. However, this policy relates to proposals for the creation of HMOs, purpose built student accommodation, and the conversion of existing houses into flats. The proposal does not relate to any of these types of development. Whilst the proposed accommodation could in theory be occupied by students, a one-bedroom house would not be a typical form of student accommodation. Given this, I consider that the policy is not applicable in this case.

14. Reference has been made to other outbuildings that have been converted in the area. I do not know the full details of the circumstances that led to these developments being accepted, although I note that the Council have indicated that there is no planning history for them. As such, I cannot be certain that they represent a direct parallel to the appeal scheme, which I have in any case determined on its own merits.

Conclusion

15. Although I have given weight to those matters which favour the scheme, I consider that they are not sufficient to outweigh the harm I have identified would be caused by way of not providing adequate living conditions for future occupiers. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

Alison Partington

INSPECTOR